

DoD IG Report DODIG-2015-167 (9 September 2015): DoD Information Technology Contracts Awarded Without Competition Were Generally Justified

Purpose: To assess whether contracting personnel within the Navy and other Services properly justified the use of other than full & open competition for Information Technology (IT) procurements in accordance with statutory requirements.

IG Findings Summary

- SPAWAR contracting personnel were found to have properly justified the use of other than full & open competitive procedures for the contracts which the inspectors reviewed.
 - All of the SPAWAR contracts reviewed by the auditors were found to have included sufficient justification to support the decision not to pursue competitive awards.
 - Proper procedures which the inspectors found to have been implemented included:
 - Appropriate application of cited authority;
 - Compliance with Federal Acquisition Regulation (FAR) 6.303-2, "Content" requirements in the Justification and Approval (J&A) for Other Than Full and Open Competition;
 - Receipt of approval from the proper personnel before contract award; and
 - Documentation of compliance with FAR Part 10, "Market Research."

Recommended Best Practices for Continued Success Across SPAWAR Claimancy:

1. Ensure that contracting personnel follow FAR synopsis requirements including:
 - a. FAR 5.207(c)(15) requires that the intended source be identified in the synopsis and a statement of the reason justifying the lack of competition be included;
 - b. FAR 5.207(c)(16)(ii) requires a statement in the synopsis that: "all responsible sources may submit a capability statement, proposal, or quotation, which shall be considered by the agency." Use when citing FAR 6.302-1;
 - c. FAR 5.207(c)(16)(i) requires a statement in the synopsis that: "all responsible sources may submit a bid, proposal, or quotation which shall be considered by the agency." Use when citing FAR 6.302-2 through 6.302-7;
 - d. Include the presolicitation notice in the file especially if the J&A states that the effort will be synopsisized in FedBizOpps;
 - e. When a contract award will not be publicized, be sure to cite the appropriate exception (FAR 5.202) in the J&A.
2. Always document rationale to show that competition could not be reasonably anticipated;
3. Market Research must be documented within the contract file IAW FAR Part 10 and be discussed within the J&A (FAR 6.303-2). When Market Research is not conducted, carefully document the reason for its absence;
4. When awarding a sole-source contract based on Unusual and Compelling Urgency (FAR 6.302-2):
 - a. Ensure that the J&A is approved prior to award whenever possible or within a "reasonable time" after contract award;
 - b. Limit the period of performance to the time necessary to meet the unusual and compelling requirements.
5. When a contract is awarded based on the 8(a) statute, be sure to cite FAR 6.302-5 "Authorized or Required by Statute" and include the SBA Acceptance Letter/DD2579 for verification purposes.